

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 22<sup>nd</sup> day of November, 2010, the following order was made and entered:

**IN RE: Proposed Amendments to The West Virginia Rules of Criminal Procedure for Magistrate Courts, Rule 7(b).**

On this day came the Court pursuant to a request, a copy of which is attached hereto, by Lewis F. Ault, Magistrate, Preston County, and proceeded to consider proposed amendments to Rule 7(b) of the Rules of Criminal Procedure for Magistrate Courts.

Upon consideration whereof, the Court is of opinion to and doth hereby approve a period of public comment on proposed amendments to conclude on January 23, 2011, with comments to be filed in writing with the Clerk of this Court. Additions are indicated by underling, to read as follows:

**The West Virginia Rules of Criminal Procedure for Magistrate Courts**

**“Rule 7. Citation for traffic and natural resources offenses.**

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(b) *Pleas of guilty or no contest.* - The citation shall be a sufficient document to which the defendant may plead guilty or no contest. Before accepting a plea of guilty or no contest, the magistrate shall inform the defendant of the charge and the penalties the court may impose. The magistrate shall also advise that the defendant has the right to be represented by an attorney, that the defendant may plead not guilty to the charge and demand a trial by jury in accordance with the time limits set forth in rule 5(c) of these rules, and that by pleading guilty the defendant waives all of these rights.

(1) For violations of West Virginia Code §17B-4-3 (driving while license suspended or revoked), except 17B-4-3(a) first offense or second offense, West Virginia Code §17C-5-1 (negligent homicide), West Virginia Code §17C-5-2 (DUI), West Virginia Code §17C-5-3 (reckless driving) and West Virginia Code Chapter 20 offenses involving injury to the person, a plea of guilty or no contest shall be made in person before a magistrate in the county where the offense occurred.

(2) For all other citations such pleas of guilty or no contest may also be made by telephone to a magistrate in the county where the offense occurred. In such instances the

magistrate, upon advising the defendant, accepting the plea, and imposing fine and costs, shall direct the defendant to complete the guilty plea form on the citation and to deliver by mail to the magistrate court the citation and all fines and costs assessed.

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A True Copy

Attest: //s// Edythe Nash Gaiser, Deputy Clerk